THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition (M/S) No. 6 of 2001

Smt. Kalawati Rawat, aged about 42 years,
Wife of Sri S.S. Rawat, R/O Deputy Dhara Road,
Pauri, District Pauri Garhwal.

…… **Petitioner.**

Versus

1. The District Magistrate, Pauri Garhwal.
2. Executive Officer, Municipal Board, Pauri
   District Pauri Garhwal.
3. Chairman, Municipal Board, Pauri
   District Pauri Garhwal.

…… **Respondents.**

Sri Prakash Bist, learned counsel for the petitioner.
Sri Nand Prasad, learned Standing Counsel for the respondent No. 1.
Sri U.P. Negi, Advocate, learned counsel for respondent Nos. 2 and 3.

Dated March 01, 2006.

Hon'ble B.S. Verma, J.

Heard learned counsel.

The petitioner has filed the present writ petition for quashing the impugned order dated 12.5.1999 passed by the respondent no. 2 as well as order dated 18-12-2000 passed by respondent no. 1.

The grievance of the petitioner was that an assessment order was passed by the Tax Committee of the Municipal Board, Pauri and Annual House Tax of Rs. 2220/- was fixed on the basis of Annual Rental Value vide order dated 12-5-1999. Aggrieved by the impugned order, the petitioner preferred an appeal before the District Magistrate Pauri, while the proper Forum is the Chief Judicial Magistrate under the Municipalities Act. The District Magistrate Pauri Garhwal has also dismissed the appeal, through he had no jurisdiction to decide the appeal against the assessment order of the Municipal Board.

The petitioner herself has chosen a wrong forum for filing the appeal.

Learned counsel for the petitioner has admitted that on wrong advice, the appeal was filed before the District Magistrate.

The appeal was filed on wrong advice. The order of the District Magistrate dated 18-12-2000 is non est in the eye of law. The petitioner is given liberty to file the appeal before the Chief Judicial Magistrate, if the cause of action survives.

The writ petition is dismissed on the ground of alternate remedy.

(B. S. Verma, J.)

RCP